

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 12-55947

BRIAN MICHAEL KOOS, and
TRACEY LYNN KOOS,

Chapter 13

Judge Thomas J. Tucker

Debtors.

**ORDER DISAPPROVING THE DEBTORS' PROPOSED
CHAPTER 13 PLAN MODIFICATION**

On June 20, 2018, the Debtors filed a proposed modification of their Chapter 13 Plan (Docket # 85). The modification proposes, in part, for the Debtors to pay part of their overdue tax refunds to the Trustee (\$3,000.00) by August 1, 2018. The Court concludes that the proposed plan modification is impermissible, because the plan as modified would exceed the five-year limit in 11 U.S.C. § 1329(c). For this reason, the Court cannot approve the modification. *See, e.g., In re Jacobs*, 263 B.R. 39, 49-50 (Bankr. N.D.N.Y. 2001); *In re DeBerry*, 183 B.R. 716, 717-18 (Bankr. M.D.N.C. 1995); *In re Cutillo*, 181 B.R. 13, 16 (Bankr. N.D.N.Y. 1995).

Section 1329(c) provides:

(c) A plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under section 1325(b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, **but the court may not approve a period that expires after five years after such time.**

11 U.S.C. § 1329(c) (emphasis added).

The 60-month plan in this case was confirmed on February 13, 2013 (Docket ## 41, 59), so the first payment after confirmation was due in February 2013. The 60-month period

therefore ended in February 2018. The proposed Plan modification cannot be approved, because the Debtors' 60-month confirmed Plan in this case expired in February 2018.¹ Under § 1329(c), the Court cannot approve any plan modification in this case that provides for payments to be made by the Debtors to the Trustee after February 2018.

For these reasons, the Court must disapprove the Debtors' proposed plan modification.

Accordingly,

IT IS ORDERED that the proposed plan modification (Docket # 85) is disapproved.

Signed on July 24, 2018



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge

¹ The Debtors' first amended plan was confirmed on February 13, 2013 (*see* Order Confirming Plan, Docket # 59), and the confirmed Plan provided for semi-monthly payments for 60 months (*see* Docket # 41).